

RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID		Requested Response Time	DSD Assigned RID # 015
Customer RID	?	24 hours	?
Internal Staff RID	<input checked="" type="checkbox"/>	10 working days	<input checked="" type="checkbox"/>
		As time available	?

1. Project Name: Detention Pond Security and Safety

2. Project Number: NA

(Plat #, Zoning Case #, etc.)

3. Project Street Address: NA

(If not available nearest intersection of two public streets)

4. Applicant Name: Robert Opitz

5. Applicant Address: Development Services Department

6. Applicant Telephone #: 207- 7587

7. Applicant e-mail Address: ropitz@sanantonio.gov

8. Rule in Question:

(Section and/or policy of UDC, Building Code, Master Plan, etc)

Reoccurring questions have arisen concerning required fencing around detention ponds. The issue of fencing related to TCEQ required settlementation basins are not a part of this provision.

9. Applicant's Position:

(Including date position presented and name of city staff point of contact)

Date: NA**Contact:** NA**Contact Telephone #:** NA

The UDC does not specifically address the requirement for fencing and/or barriers surrounding a detention pond whether public or private. Requirement of construction of such a fence is a cost burden to the project in question, which is not required per Chapter 35 of the Municipal Code.

10. Staff Finding:

(Including date of finding and name of city staff person formulating finding)

Date: July 1, 2004**Contact:** Bob Opitz**Contact Telephone #:** 207-7587

The construction of a detention pond which periodically holds storm water is a safety hazard for youth and elderly residents who may inadvertently enter the facility when it contains water.

11. Staff Position:

(Including date position presented internally and name of city staff person formulating position)

Date: July 28, 2004**Contact:** Bill Telford**Contact Telephone #:** 207-7879

While the code is silent on the issue of requiring security fencing or barriers in connection with the construction and ongoing use of a detention pond professional engineering and development practices recognize without question that such a facility is in fact an “attractive nuisance” that provides a very real and present threat to young children and the elderly.

Combined with the implied legal responsibility that lies with the developer, design engineer and the operator of the facility to construct and operate detention ponds in a manner that is non-threatening to the public it is safe to assume that should loss of life or bodily injury be inflicted on an innocent passerby that costly defense in court could occur.

Staff’s position is that the City should not accept any detention facility with slopes steeper than 3H: 1V for public maintenance or allow any detention facility with slopes steeper than 3H: 1V to be operated privately that do not provide a safety barrier fence for the safety of the public.

Barrier fence and gating (chain link, solid wood, masonry, stoner, wrought iron or precast panels at least six (6) feet in height shall be required along the entire perimeter of the pond whether on top of the berm or on the out side of the berm for the purpose of preventing access to the pond by the public. Such barrier fence and gating shall be required whether the ownership of the detention facility is public or private owned and/or operated.

Regardless of the gradient of the interior slope of the detention pond a barrier fence shall always be provided under the following conditions:

1. On the premises of any facility (public or private) providing services to children such as schools, day care centers, scout huts, play yards or parks.
2. For any detention pond located within 150 feet of a residential use.
3. For any detention pond located within 50 feet of a public or private street.

Construction plans for barrier fencing shall be submitted to the Development Services Department and shall include the maintenance methods proposed and provide the inclusion of a private or public drainage easement covering the exterior limits of the proposed facility. Such easement shall be indicated on the subdivision plat or by dedicated field note description if platting is not involved.

12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director of Development Services)

Date of policy/action: July 29, 2004

Effective Date of policy/action: Immediate

The Director agrees with staff's finding that a detention pond is an "attractive nuisance" that when accompanied by excessive slopes poses a threat to the safety of the general public. Therefore the Director is issuing the following policy in relation to detention pond fencing.

The City will not accept any detention facility with slopes steeper than 3H: 1V for public maintenance or allow any detention facility with slopes steeper than 3H: 1V to be operated privately that do not provide a safety barrier fence for the safety of the public.

Barrier fence and gating (chain link, solid wood, masonry, stoner, wrought iron or precast panels at least six (6) feet in height shall be required along the entire perimeter of the pond whether on top of the berm or on the out side of the berm for the purpose of preventing access to the pond by the public. Such barrier fence and gating shall be required whether the ownership of the detention facility is public or private owned and/or operated.

Regardless of the gradient of the slope of the detention pond a barrier fence shall always be provided under the following conditions:

1. On the premises of any facility (public or private) providing services to children such as schools, day care centers, scout huts, play yards or parks.
2. For any detention pond located within 150 feet of a residential use.
3. For any detention pond located within 50 feet of a public or private street.

Construction plans for barrier fencing shall be submitted to the Development Services Department and shall include the maintenance methods proposed and provide the inclusion of a private or public drainage easement covering the exterior limits of the proposed facility. Such easement shall be indicated on the subdivision plat or by dedicated field note description if platting is not involved.

In addition to the above policy I am also instructing staff to incorporate the above policy as an amendment to the UDC as quickly as possible due to the legal liability of the facilities, which the policy addresses.

Florencio Peña III, Director
Development Services Department